
HOUSE BILL 3131

State of Washington 59th Legislature 2006 Regular Session

By Representatives Jarrett, Clibborn, Nixon, Dunn and Morrell

Read first time 01/23/2006. Referred to Committee on Technology,
Energy & Communications.

1 AN ACT Relating to tax incentives for renewable energy; amending
2 RCW 82.16.010 and 82.16.020; adding a new section to chapter 82.08 RCW;
3 adding a new section to chapter 82.12 RCW; adding a new section to
4 chapter 82.29A RCW; adding a new section to chapter 84.36 RCW; adding
5 a new section to chapter 82.16 RCW; adding a new section to chapter
6 82.32 RCW; creating new sections; and providing an effective date.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
9 establish a goal of encouraging the construction and development of
10 renewable energy resource facilities in the state of Washington to meet
11 increasing demand for affordable and reliable electricity.

12 **Sec. 2.** RCW 82.16.010 and 1996 c 150 s 1 are each amended to read
13 as follows:

14 For the purposes of this chapter, unless otherwise required by the
15 context:

16 (1) "Railroad business" means the business of operating any
17 railroad, by whatever power operated, for public use in the conveyance

1 of persons or property for hire. It shall not, however, include any
2 business herein defined as an urban transportation business.

3 (2) "Express business" means the business of carrying property for
4 public hire on the line of any common carrier operated in this state,
5 when such common carrier is not owned or leased by the person engaging
6 in such business.

7 (3) "Railroad car business" means the business of operating stock
8 cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank
9 cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any
10 other kinds of cars used for transportation of property or persons upon
11 the line of any railroad operated in this state when such railroad is
12 not owned or leased by the person engaging in such business.

13 (4) "Water distribution business" means the business of operating
14 a plant or system for the distribution of water for hire or sale.

15 (5) "Light and power business" means the business of operating a
16 plant or system for the generation, production or distribution of
17 electrical energy for hire or sale and/or for the wheeling of
18 electricity for others.

19 (6) "Telegraph business" means the business of affording
20 telegraphic communication for hire.

21 (7) "Gas distribution business" means the business of operating a
22 plant or system for the production or distribution for hire or sale of
23 gas, whether manufactured or natural.

24 (8) "Motor transportation business" means the business (except
25 urban transportation business) of operating any motor propelled vehicle
26 by which persons or property of others are conveyed for hire, and
27 includes, but is not limited to, the operation of any motor propelled
28 vehicle as an auto transportation company (except urban transportation
29 business), common carrier or contract carrier as defined by RCW
30 81.68.010 and 81.80.010: PROVIDED, That "motor transportation
31 business" shall not mean or include the transportation of logs or other
32 forest products exclusively upon private roads or private highways.

33 (9) "Urban transportation business" means the business of operating
34 any vehicle for public use in the conveyance of persons or property for
35 hire, insofar as (a) operating entirely within the corporate limits of
36 any city or town, or within five miles of the corporate limits thereof,
37 or (b) operating entirely within and between cities and towns whose
38 corporate limits are not more than five miles apart or within five

1 miles of the corporate limits of either thereof. Included herein, but
2 without limiting the scope hereof, is the business of operating
3 passenger vehicles of every type and also the business of operating
4 cartage, pickup, or delivery services, including in such services the
5 collection and distribution of property arriving from or destined to a
6 point within or without the state, whether or not such collection or
7 distribution be made by the person performing a local or interstate
8 line-haul of such property.

9 (10) "Public service business" means any of the businesses defined
10 in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), and (9) or any
11 business subject to control by the state, or having the powers of
12 eminent domain and the duties incident thereto, or any business
13 hereafter declared by the legislature to be of a public service nature,
14 except telephone business as defined in RCW 82.04.065 and low-level
15 radioactive waste site operating companies as redefined in RCW
16 81.04.010. It includes, among others, without limiting the scope
17 hereof: Airplane transportation, boom, dock, ferry, pipe line, toll
18 bridge, toll logging road, water transportation and wharf businesses.

19 (11) "Tugboat business" means the business of operating tugboats,
20 towboats, wharf boats or similar vessels in the towing or pushing of
21 vessels, barges or rafts for hire.

22 (12) "Gross income" means the value proceeding or accruing from the
23 performance of the particular public service or transportation business
24 involved, including operations incidental thereto, but without any
25 deduction on account of the cost of the commodity furnished or sold,
26 the cost of materials used, labor costs, interest, discount, delivery
27 costs, taxes, or any other expense whatsoever paid or accrued and
28 without any deduction on account of losses.

29 (13) The meaning attributed, in chapter 82.04 RCW, to the term "tax
30 year," "person," "value proceeding or accruing," "business," "engaging
31 in business," "in this state," "within this state," "cash discount" and
32 "successor" shall apply equally in the provisions of this chapter.

33 (14) "Renewable resource facility" means an electric generation
34 facility fueled by: (a) Water; (b) wind; (c) solar energy; (d)
35 geothermal energy; (e) landfill gas; (f) biomass energy based on animal
36 waste or solid organic fuels from wood, forest, or field residues, or
37 dedicated energy crops that do not include wood pieces that have been

1 treated with chemical preservatives such as creosote,
2 pentachlorophenol, or copper-chrome-arsenic; (g) wave or tidal power;
3 (h) gas from sewage treatment facilities; or (i) municipal solid waste.

4 **Sec. 3.** RCW 82.16.020 and 1996 c 150 s 2 are each amended to read
5 as follows:

6 (1) There is levied and there shall be collected from every person
7 a tax for the act or privilege of engaging within this state in any one
8 or more of the businesses herein mentioned. The tax shall be equal to
9 the gross income of the business, multiplied by the rate set out after
10 the business, as follows:

11 (a) Express, sewerage collection, and telegraph businesses: Three
12 and six-tenths percent;

13 (b) Light and power business: Three and sixty-two one-hundredths
14 percent except, for income from the sale of electricity produced at a
15 renewable resource facility, two and two-tenths percent;

16 (c) Gas distribution business: Three and six-tenths percent;

17 (d) Urban transportation business: Six-tenths of one percent;

18 (e) Vessels under sixty-five feet in length, except tugboats,
19 operating upon the waters within the state: Six-tenths of one percent;

20 (f) Motor transportation, railroad, railroad car, and tugboat
21 businesses, and all public service businesses other than ones mentioned
22 above: One and eight-tenths of one percent;

23 (g) Water distribution business: Four and seven-tenths percent.

24 (2) An additional tax is imposed equal to the rate specified in RCW
25 82.02.030 multiplied by the tax payable under subsection (1) of this
26 section.

27 (3) Twenty percent of the moneys collected under subsection (1) of
28 this section on water distribution businesses and sixty percent of the
29 moneys collected under subsection (1) of this section on sewerage
30 collection businesses shall be deposited in the public works assistance
31 account created in RCW 43.155.050.

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.08 RCW
33 to read as follows:

34 (1) The tax levied by RCW 82.08.020 does not apply to charges made
35 for labor and services rendered in respect to the constructing of new
36 renewable resource facilities, to sales of tangible personal property

1 that will be incorporated as an ingredient or component of such
2 facilities during the course of the constructing, or to labor and
3 services rendered in respect to installing, during the course of
4 constructing, building fixtures. The exemption is available only when
5 the buyer provides the seller with an exemption certificate in a form
6 and manner prescribed by the department. The seller shall retain a
7 copy of the certificate for the seller's files.

8 (2) No application is necessary for the tax exemption in this
9 section. A person taking the exemption under this section is subject
10 to all the requirements of chapter 82.32 RCW. In addition, the person
11 must report as required in section 9 of this act.

12 (3) The exemption in this section only applies to buildings, or
13 parts of buildings, that are used exclusively in the production of
14 electricity.

15 (4) For the purposes of this section, "renewable resource facility"
16 has the meaning provided in RCW 82.16.010.

17 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.12 RCW
18 to read as follows:

19 (1) The provisions of this chapter do not apply with respect to the
20 use of tangible personal property that will be incorporated as an
21 ingredient or component of new renewable resource facilities, during
22 the course of constructing such facilities, or to labor and services
23 rendered in respect to installing, during the course of constructing,
24 building fixtures.

25 (2) The eligibility requirements, conditions, and definitions in
26 section 4 of this act apply to this section.

27 (3) For the purposes of this section, "renewable resource facility"
28 has the meaning provided in RCW 82.16.010.

29 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.29A RCW
30 to read as follows:

31 (1) All leasehold interests in renewable resource facilities exempt
32 from tax under sections 4 and 5 of this act and used exclusively for
33 the production of electricity are exempt from tax under this chapter.
34 A person taking the credit under section 8 of this act is not eligible
35 for the exemption under this section.

1 (2) In addition to all other requirements under this title, a
2 person taking the exemption under this section must report as required
3 in section 9 of this act.

4 (3) For the purposes of this section, "renewable resource facility"
5 has the meaning provided in RCW 82.16.010.

6 NEW SECTION. **Sec. 7.** A new section is added to chapter 84.36 RCW
7 to read as follows:

8 (1) All buildings, machinery, equipment, and other personal
9 property of a lessee of a renewable resource facility exempt from tax
10 under sections 4 and 5 of this act are exempt from property taxation if
11 the buildings, machinery, equipment, and other personal property are
12 used exclusively for the production of electricity. A person taking
13 the credit under section 8 of this act is not eligible for the
14 exemption under this section.

15 (2) In addition to all other requirements under this title, a
16 person taking the exemption under this section must report as required
17 in section 9 of this act.

18 (3) Claims for exemption authorized by this section shall be filed
19 with the county assessor on forms prescribed by the department and
20 furnished by the assessor. The assessor shall verify and approve
21 claims as the assessor determines to be justified and in accordance
22 with this section. The department may adopt rules, under the
23 provisions of chapter 34.05 RCW, as necessary to properly administer
24 this section.

25 (4) For the purposes of this section, "renewable resource facility"
26 has the meaning provided in RCW 82.16.010.

27 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.16 RCW
28 to read as follows:

29 (1) In computing the tax imposed under this chapter, a credit is
30 allowed for property taxes paid during the calendar year.

31 (2) The credit is equal to:

32 (a)(i) Property taxes paid on new renewable resource facilities,
33 and land upon which this property is located, built after July 1, 2006,
34 and used exclusively for the production of electricity; or

35 (ii) Property taxes attributable to an increase in assessed value
36 of the property described in (a)(i) of this subsection due to the

1 renovation or expansion, after July 1, 2006, of a renewable resource
2 facility and the renovation or expansion is used exclusively for the
3 production of electricity; and

4 (b) Property taxes paid on machinery and equipment used at a new
5 renewable resource facility, used for the production of electricity,
6 and acquired after July 1, 2006.

7 (3) A person taking the credit under this section is subject to all
8 the requirements of chapter 82.32 RCW. A credit earned during one
9 calendar year may be carried over to be credited against taxes incurred
10 in a subsequent calendar year, but may not be carried over a second
11 year. No refunds may be granted for credits under this section.

12 (4) In addition to all other requirements under this title, a
13 person taking the credit under this section must report as required in
14 section 9 of this act.

15 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.32 RCW
16 to read as follows:

17 (1) The legislature finds that accountability and effectiveness are
18 important aspects of setting tax policy. In order to make policy
19 choices regarding the best use of limited state resources the
20 legislature needs information on how a tax incentive is used.

21 (2)(a) A person who claims the preferential tax rate under RCW
22 82.16.020 or an exemption or credit under sections 4 through 8 of this
23 act shall make an annual report to the department detailing employment,
24 wages, and employer-provided health and retirement benefits per job at
25 the site. The report shall not include names of employees. The report
26 shall also detail employment by the total number of full-time, part-
27 time, and temporary positions. The report shall also specify the
28 number of kilowatt-hours produced at the renewable resource facility
29 and the production cost per kilowatt-hour at the facility for the
30 twelve month period covered in the annual report. The first report
31 filed under this subsection shall include employment, wage, and benefit
32 information for the twelve-month period immediately before first use of
33 the preferential tax rate under RCW 82.16.020 or an exemption or credit
34 under sections 4 through 8 of this act. The first report filed under
35 this subsection shall also include information about the size,
36 location, fuel type, and generating capacity for the renewable resource
37 facility. The report is due by March 31st following any year in which

1 the preferential tax rate under RCW 82.16.020 or an exemption or credit
2 under sections 4 through 8 of this act is taken. This information is
3 not subject to the confidentiality provisions of RCW 82.32.330 and may
4 be disclosed to the public upon request.

5 (b) If a person fails to submit an annual report under (a) of this
6 subsection by the due date of the report, the department shall declare
7 the amount of taxes exempted or credited for that year to be
8 immediately due and payable. Excise taxes payable under this
9 subsection are subject to interest but not penalties, as provided under
10 this chapter. This information is not subject to the confidentiality
11 provisions of RCW 82.32.330 and may be disclosed to the public upon
12 request.

13 (3) By November 1, 2010, and by November 1, 2015, the fiscal
14 committees of the house of representatives and the senate, in
15 consultation with the department, shall report to the legislature on
16 the effectiveness of this act in regard to promoting the construction
17 and development of facilities that produce electricity using renewable
18 resources.

19 (4) For the purposes of this section, "renewable resource facility"
20 has the meaning provided in RCW 82.16.010.

21 NEW SECTION. **Sec. 10.** Section 7 of this act applies to taxes
22 levied for collection in 2007 and thereafter.

23 NEW SECTION. **Sec. 11.** This act takes effect July 1, 2006.

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